

REMARKS

The Examiner rejected claims 11, 13, 14, 16 and 18 under 35 U.S.C. §103(a) as being unpatentable over Doss in combination with Schachar and Wuchinich. The Examiner rejected claims 20, 21, and 23 under 35 U.S.C. §103(a) as being unpatentable over Doss in combination with Schachar and Wuchinich. The Examiner states that Doss does not provide an admonition to not allow the tip to touch the cornea. The Applicant respectfully traverses this contention.

Doss discloses a device wherein the electrode is spaced from the cornea so that a coolant can flow over the outer corneal tissue to cool the same. Doss makes repeated statements about not having the electrode touch the cornea. For example, column 2, lines 21-25 of Doss states:

"In accordance with the present invention there is provided an apparatus for changing corneal shape comprising an electrical conductive element positionable near to without touching the corneal surface of an eye."

Later on in the Summary of the Invention section of Doss, this reference has the following passage regarding no contact between the electrode and the cornea:

"The electrode has a generally hemispherical head disposed in the vicinity of the annular end of the housing, but is positioned therein so as not physically touch the cornea of the person or animal to be treated." Col. 2, line 43-47.

Doss clearly discloses and strongly suggests that the electrode does not come into contact with the cornea. This lack of contact leaves a space to allow a coolant to cool the outer corneal tissue. Cooling the cornea is one of the stated objectives of the Doss system. (See Column 2, lines 10-13). The applicant submits that there is no motivation in either Doss nor Schachar to

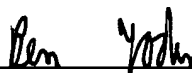
combine these references. Schachar is merely a heated tip. Doss clearly teaches away from insertions of the tip into the cornea. Neither reference would suggest to one skilled in the art to insert the electrode of Doss into the cornea. For these reasons, the Applicant submits that the pending claims are not obvious in view of Doss in combination with Schachar and Wuchinich.

In view of the above it is submitted that the claims are in condition for allowance.

Reconsideration of the rejections is requested. Allowance of claims 11, 13, 14, 16, 18, 20, 21 and 23 at an early date is solicited.

Respectfully submitted,
IRELL & MANELLA LLP

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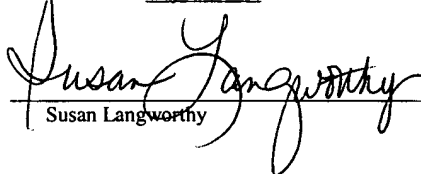


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